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 TV INTERACTIVE DATA CORPORATION

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

TV INTERACTIVE DATA CORPORATION, a
 California corporation,

Plaintiff,

v.

SONY CORPORATION; SONY COMPUTER
 ENTERTAINMENT INC.; SONY COMPUTER
 ENTERTAINMENT AMERICA, INC.; SONY
 CORPORATION OF AMERICA; SONY
 ELECTRONICS, INC.; SAMSUNG ELECTRONICS
 CO., LTD.; SAMSUNG ELECTRONICS AMERICA,
 INC.; ROYAL PHILIPS ELECTRONICS N.V.;
 PHILIPS ELECTRONICS NORTH AMERICA
 CORPORATION; TOSHIBA CORPORATION;
 TOSHIBA AMERICA, INC.; TOSHIBA AMERICA
 CONSUMER PRODUCTS, L.L.C.; PANASONIC
 CORPORATION; PANASONIC CORPORATION OF
 NORTH AMERICA; VICTOR COMPANY OF JAPAN,
 LTD.; JVC AMERICAS CORP.; LG ELECTRONICS,
 INC.; LG ELECTRONICS U.S.A., INC.; ZENITH
 ELECTRONICS LLC; PIONEER CORPORATION;
 PIONEER ELECTRONICS (USA) INC.; SHARP
 CORPORATION; SHARP ELECTRONICS
 CORPORATION; FUNAI ELECTRIC CO., LTD;
 FUNAI CORPORATION, INC.; D&M HOLDINGS
 INC.; DENON ELECTRONICS (USA), LLC,

Defendants.

CASE NO. C 10-00475 JF

**STIPULATION AND
~~PROPOSED~~ ORDER FOR
 DISCOVERY OF HARD COPY
 AND ELECTRONICALLY
 STORED INFORMATION
 AS AMENDED BY THE COURT**

A. ESI PRODUCTION.

If electronic data are produced in TIFF format, the following applies:

1. The production format is 300 dpi single page black and white Group IV TIFFs with extracted text.
2. Metadata Fields. ESI productions of imaged data shall include the following metadata field information, as defined in Table A, if such metadata information is present in the document(s) being produced:

BEG_NO	ATTACH_RANGE	FILE_EXT	FILE_NAME
END_NO	TO	CC	BCC
HASH	SUBJECT	FROM	DATE_SENT
TIME_SENT			

TVI reserves the right to request discovery toward the identity of a file's custodian and/or information for the metadata fields CREATE_DATE, DATE_LAST_MOD, and TIME_LAST_MOD to the extent TVI has a reasonable belief that the custodian's identity and/or additional information for the metadata fields CREATE_DATE, DATE_LAST_MOD, and TIME_LAST_MOD are relevant or will lead to the discovery of admissible evidence. Defendants agree to consider any such discovery request but expressly reserve the right to object to or to provide the information in an alternative manner as appropriate under the circumstances.

3. Unique IDs. Each document should have a unique file name which will be the Bates number of that page or the range of the document. The Bates numbers must appear on the face of each page in the lower right corner (*e.g.*, ABC0000001).
4. Text Files. For nonsearchable documents, a document-level text file should be provided in addition, except for documents maintained in non-convertible files.
5. Color. The parties will accommodate reasonable requests for production of specific images in color.
6. Native Format. The parties agreed to produce documents in native format for reasonable requests on a case-by-case basis.

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7. TIFF productions will be produced with load files in Summation, Concordance, or Opticon format.

If electronic data are produced in native format, the following applies:

8. Documents produced in native format will be produced with a corresponding control number assigned to the original file name and confidentiality designation, if any, for each such native file. The control number may be affixed directly to files or produced in a separate document. The parties need not separately provide metadata associated with files produced in native format because it would require redundant production of information inherent in native files.

The following also applies to ESI productions:

9. Unique Documents/De-duplication Procedures. In the interest of saving production costs, the parties are not required to produce duplicates of electronic documents stored in different locations. Thus, the parties may only provide a single copy of a document although the document was distributed to multiple recipients. TVI reserves the right to request Defendants to disclose custodian information for particular documents.

10. Databases. Certain types of databases are dynamic in nature and will often contain information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Thus, a party may opt to produce relevant and responsive information from databases in an alternate form, such as a report or data table. These reports or data tables will be produced in a static image format. To the extent that relevant and responsive reports or data tables derived from a database were also maintained in static form (*e.g.*, as a PDF attachment or a hard copy in a file), those documents will be produced as static images consistent with the specifications for production of ESI or paper, as the case may be.

The parties agree to identify the specific databases, by name and platform or engine (*e.g.*, Oracle, SQL), that contain the relevant and responsive information that parties produce.

11. Non-Convertible Files: Certain types of files such as system, program, video and sound files may not be amenable to conversion into a useful document format and are thus considered non-convertible files. Relevant and responsive non-convertible files will be produced in their native format and a placeholder containing the Bates number and confidentiality designation, if any, will also be provided. Defendants may also choose to produce non-convertible files in native format with a corresponding control number assigned to the original file name and confidentiality designation, if any, for each such native file. The control number may be affixed directly to files or produced in a separate document.

12. Parent-Child Relationships. The parties will make reasonable efforts to preserve parent-child relationships (the association between an attachment and its parent document).

B. HARD-COPY PRODUCTION.

Hard-copy documents should be provided in the following format:

1. A standard searchable document format agreed to amongst the parties or TIFF images, for example, 300 dpi single page black and white Group IV TIFFs.
2. Color. The parties will accommodate reasonable requests for production of specific images in color.
3. Unique IDs. Each image should have a unique file name that will be the Bates number of that page. The Bates number must appear on the face of the image in the lower right corner (*e.g.*, ABC0000001).
4. Unitizing of Documents. When scanning paper documents, distinct documents should not be merged into a single record, and single documents should not be split into multiple records (*i.e.*, paper documents should be logically unitized). The parties will make their best efforts to have their vendors unitize documents correctly and will commit to address situations where there are improperly unitized documents.

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5. Database Load Files/Cross-Reference Files. Documents should be provided with document management load files, such as load files in Summation, Concordance, or Opticon format.
6. Parent-Child Relationships. The parties agree to make reasonable efforts to preserve parent-child relationships (the association between an attachment and its parent document).
7. Objective Coding Fields. The following objective coding fields should be provided to the extent determinable: (i) Beginning Bates Number; (ii) Ending Bates Number; and (iii) Attachment Range Bates Numbers.
8. Metadata. Hard copy documents do not contain metadata.
9. TVI reserves the right to request custodian information for documents produced under this provision. Defendants agree to consider any such discovery request but expressly reserve the right to object to or to provide the information in an alternative manner as appropriate under the circumstances.
10. OCR. OCR text files are not required for hard-copy documents. The receiving party may OCR hard-copy documents at its own expense.

C. MISCELLANEOUS PRODUCTION ITEMS.

1. Production Labels. The parties agree to attach a label to each piece of media containing production data. The label will provide the following information:

Party v. Party (case name)

Case No. 000000 (case number)

Month, Day, Year (date production was created on the disk)

Volume Number

Bates Range

Confidential Designation (if necessary)

2. Production Media. Documents will be produced on CD-ROM or DVD disks or on portable hard drives.

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D. ACCESSIBLE AND INACCESSIBLE ESI.

The parties agree to comply Rule 26(b)(2)(B) of the Federal Rules of Civil Procedure regarding accessible and inaccessible ESI. The parties agree that the circumstances of this case do not warrant the preservation, review, or production of ESI that is not reasonably accessible because it is unlikely that significant relevant information would be located in those sources that is not otherwise available in reasonably accessible sources. Examples of not reasonably accessible ESI may include:

- Backup Tapes
- Voicemail
- Instant Messaging
- Legacy Data
- Residual, fragmented, damaged, permanently deleted, slack and unallocated data
- Handheld PDA-type devices
- USB Flash Drives/Jump Drives
- Handheld PDA-type devices that operate independent of and/or are unsynchronized with a network

E. RIGHT TO REQUEST ADDITIONAL INFORMATION.

The agreements set forth herein are without prejudice to the right of a requesting party to request additional information about specific ESI, including sources of ESI previously identified as “inaccessible ESI” in Section D.2., if that party can demonstrate that material, relevant, and responsive information that is not otherwise cumulative of information already produced can only be found through such additional efforts. The parties will negotiate in good faith with regard to whether such additional efforts are reasonably required and, if so, who should bear the cost, with the Court to resolve such disputes if agreement cannot be reached.

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F. INADVERTENT PRODUCTION OF DOCUMENTS.

1. No Waiver of Privilege: The inadvertent production or delivery of any materials during discovery in this action shall be without prejudice to any claim that such material is protected by any legally cognizable privilege or evidentiary protection including, but not limited to, the attorney-client privilege or the work product immunity. No party shall be held to have voluntarily waived any rights by inadvertent production, so long as that party has complied with the conditions set forth in this order and stipulation. However, a receiving party may assert that there has been a waiver if it can demonstrate that the "reasonableness" standard set forth in Rule 502(b) of the Federal Rules of Evidence has not been satisfied.

2. Procedure for Asserting Privilege. If a producing party inadvertently produces any protected or privileged materials without intending to waive the claim of protection or privilege associated with such a material (the "Inadvertently Produced Privileged Documents"), the producing party must notify the receiving party that such materials were inadvertently produced and should have been withheld as protected or privileged within ten days of discovering the inadvertent production. Notice must be in writing, unless it is an oral notice delivered at a deposition. If the notice is delivered orally at a deposition, the notifying party must follow up with a written notice within three days. All requests and notifications must be specific enough to identify and locate the privileged information

3. Procedure Upon Receiving Notice: Upon receiving notice, the receiving party must return or destroy the specified material and all altered and unaltered hard and electronic copies in the receiving party's possession within ten days. The receiving party must promptly certify that the materials have been returned or destroyed. In addition, the producing party will send a replacement disk containing all non-privileged documents that were contained on the original production disk. The producing party shall add the subject document to its privilege log and provide the updated Privilege Log to the receiving party. If the Inadvertently Produced Privilege Document requires redaction only, the producing party shall within thirty (30) days of the Notice of Recall, provide to the receiving party a redacted version of the document and an

1 updated privilege log by submitting a replacement disk containing the original production with
2 the redacted documents included.

3 4. Procedure for Contesting Privilege: The return of an Inadvertently Produced
4 Privilege Document does not preclude the receiving party from disagreeing with the designation
5 of the document as privileged or as redacted and re-produced and bringing a Motion to Compel
6 its production pursuant to the Federal Rules of Civil Procedure and the terms of this stipulation.
7 The receiving party shall have twenty days from receipt of the notice of inadvertent production to
8 notify the producing party that it is reserving the right to object to the claim of privilege. After
9 deciding which Inadvertently Produced Privileged Documents it intends to contest a claim of
10 privilege, the receiving party shall notify the producing party in writing of its objections to the
11 claims of privilege for each Inadvertently Produced Privilege Document and the grounds for the
12 objections. To be clear, a receiving party may challenge claims of privilege over Inadvertently
13 Produced Privilege Documents on a case-by-case basis or wait to challenge claims of privilege
14 over Inadvertently Produced Privilege Documents collectively. The parties will attempt to
15 resolve any such challenges by meeting and conferring. In the event that such a challenge is not
16 resolved through the meet and confer process, the receiving party may file a motion to compel
17 disclosure and production of the Inadvertently Produced Privileged Document(s). In response to
18 any such motion to compel, the producing party shall submit all challenged Inadvertently
19 Produced Privilege Documents under seal and the grounds for the asserted privilege or protection
20 to the Court for a determination of the claim of privilege or protection.

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23 ///

(in voice to voice dialogue; other forms of
communication are not sufficient)

(in accordance with the procedures and
standards set forth in Civil Local Rule 79-5 and
General Order 62)

1 I, Sang Young A. Brodie, the filer of this document attest that concurrence in the filing of
2 this document has been obtained from each of the signatories below.

3
4 DATED: October 19, 2010

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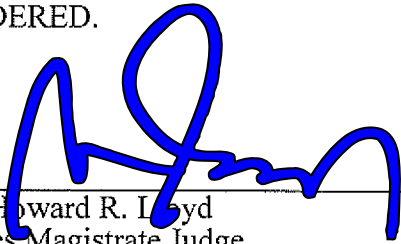
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13 **AMERICAS CORP.**

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: November 4, 2010



Honorable Howard R. Lloyd
United States Magistrate Judge

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.
ATTORNEYS AT LAW
MINNEAPOLIS

TABLE A. METADATA FIELDS

Field Name	Description/ Comments
BEG_NO	Bates number associated with the first page of a document.
END_NO	Bates number associated with the last page of a document.
ATTACH_RANGE	Attachment range for parent and children. The range should start with the BEG_NO of the parent and end with the END_NO of the last child.
FILE_EXT	File extension of native file (e.g., XLS, DOC)
FILE_NAME	Original file name of native file. Contains subject of email message for e-mail records.
HASH	The Hash value or "de-duplication key" assigned to a document. Parties will use MD5 Hash value for this unique identifier. PID's for email families should also be preserved.
SUBJECT	Information from the Subject line of the e-mail message
FROM	Author of e-mail message
TO	Recipients of the e-mail message
CC	Recipient of Carbon Copies of the e-mail message
BCC	Recipient of blind carbon copies of the e-mail message
DATE_SENT	Sent date of an e-mail message. Must be in mm/dd/yyyy format.
TIME_SENT	Sent time of an e-mail message. GMT/CST/time is was created in/Needs to be in military format.

[illegible]

On October 20, 2010 I served the foregoing document described as **STIPULATION AND [PROPOSED] ORDER FOR DISCOVERY OF HARD COPY AND ELECTRONICALLY STORED INFORMATION** on the interested parties in this action by placing a true and correct copy thereof enclosed in a sealed envelope addressed as follows:

☐ **BY MAIL:** I caused such envelope to be deposited in the mail at Minneapolis, Minnesota. The envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with this firm's practice of collection and processing correspondence for mailing. It is deposited with U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ **BY FEDERAL EXPRESS - OVERNIGHT:** I caused such envelope to be deposited in a box or other facility regularly maintained by Federal Express in an envelope or package designated by Federal Express with delivery fees paid.

☐ **BY FACSIMILE:** I served a true copy of the document(s) described on all parties to this action by facsimile transmission, and the transmission was reported as complete and without error. Facsimile transmissions were sent and addressed as stated above.

☐ **BY PERSONAL SERVICE:** I caused such envelope to be delivered by hand to the offices of the addressees.

☒ **BY E-MAIL:** I served a true copy of the document(s) on all parties to this action via e-mail transmission. E-mail transmissions were sent and addressed as stated above.

☒ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction service was made.

Michele M. Tacheny

SERVICE LIST

TV Interactive Data Corporation v. Sony, et al.
U.S.D.C. Northern District of California Case No. 10-CV-00475 EMC

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